IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5544 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LAXMIKANT H. MAHARISHI SINCE DECD. THRO HEIRS & L.RS.

Versus

GUJARAT AYURVED UNIVERSITY

Appearance:

1. Special Civil Application No. 5544 of 2002

MR MIHIR H JOSHI for Petitioner No. 1

MR BA VAISHNAV for Petitioner No. 1,1/1-1/4

MR MANOJ N POPAT for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 06/05/2004

ORAL JUDGEMENT

The petitioner being aggrieved of the order dated

18.05.2002 whereby the petitioner was dismissed from service, with immediate effect has approached this Court by filing this petition praying that,

"Your Lordships be pleased to declare the order dated 18.5.2002 issued by the respondent inter alia dismissing the petitioner from the services of the University, at Annexure Y hereto as illegal and void and be further pleased to issue a write of mandamus or a writ in the nature of mandamus directing the respondent to forthwith reinstate the petitioner in his cadre with continuity and consequential benefits."

2. The facts of the case are that the petitioner was appointed as Accounts Officer on 26.05.1989. The petitioner was placed in the pay scale of Deputy Registrar and was discharging duties as Chief Accounts Officer. On 31.08.1996 he was given additional charge of the post of Registrar with effect from 01.09.1996. Thereafter, by notification dated 07.10.1997 issued under section 10(4) of the Gujarat Ayurved University Act, 1965, he was given additional charge of the post of Vice Chancellor to perform the current duties. The petitioner successfully held this charge till 04.04.1998 as Dr.Kurup was appointed as Vice Chancellor of Gujarat Ayurved University by notification dated 03.04.1998.

3. By Resolution of the Syndicate dated 08.02.1999 and consequential order dated 19.02.1999 the petitioner was given ad hoc appointment as Registrar for one year. In the Senate meeting dated 25.02.2000 one Shri Ashokbhai Nanda alleged misuse of powers by the petitioner while he was holding additional charge of Vice Chancellor and a Resolution was passed to take disciplinary action for the alleged financial irregularity. By the said Resolution it was recommended to the Syndicate that the petitioner be placed on his original post. It was further resolved that the said Resolution be forwarded to the Chancellor and the State Government, but then after prolonged discussion, on a clear understanding that the aforesaid matter will be considered by the Syndicate, the Senator (Shri Ashokbhai Nanda) with the consent of the House withdrew the said Resolution. Thereafter, said Resolution was placed before the Syndicate in its meeting dated 01.04.2000. The Syndicate in its meeting resolved that the petitioner be posted back on his original post (Deputy Registrar) and he be further transferred as Chief Accounts Officer and the charge of the post of Registrar be handed over to Dr.A.J. Baxi (Professor) and that immediate steps be taken to fill in the post of Registrar

on regular basis. In addition to that the Syndicate resolved that the allegations of misuse of powers of the petitioners be inquired into by an Inquiry Committee, consisting of Shri Ashokbhai Nanda, Syndicate Member, Ms.Muktaben Makani, Syndicate Member and Indubhai Vora, Senator. The Committee was to submit its report within three months. It is recorded in the proceedings of the said meeting (162nd meeting of the Syndicate dated 01.04.2000), that during the aforesaid discussion Shri L.H. Maharshi had absented himself by remaining out from the House. At this juncture, it is required to be noted that the Syndicate had appointed the Inquiry Committee consisting of Shri Ashokbhai Nanda, who alleged misuse of power against the petitioner and Shri I.C. Vora, who had seconded the allegation in the Senate meeting dated 25.02.2000.

4. The Committee submitted its report dated 04.12.2000, which was served to the petitioner along with show cause notice dated 11.07.2001 (after 7 months). The petitioner was asked to submit his explanation within eight days, failing which the matter was to proceed ex parte. The petitioner submitted his reply dated 19.07.2001. The petitioner was suspended on 06.09.2001 and was served with charge sheet dated 28.09.2001. The gist of the charge sheet is set out in para 13 of the memo of petition along with the relevant findings recorded by the Inquiry Officer in that regard, which is as under:

"Charge 1 : LHM had represented himself as regular Registrar though he was only given additional charge and had also conducted himself and worked as if he was a regular Registrar, which amounted to a serious misconduct.

(Findings Page 35/155)

There was a distinction in the University Statutes between In-charge/ Acting/ Officiating appointments, which should have been known to LHM as a senior employee of University, despite which he deliberately filed a wrong joining report on 2.9.96 (Exh.11/3). He also got visiting cards and letter heads printed (Ex.11/20 and 11/26) indicating his designation as Registrar which cards were printed before 1.1.98 evident from the telephone numbers. Even the bills in respect thereof (Ex.11/21) were dated 16.12.97. Contention of LHM that there were innumerable

instances as in the past were such appointees had similarly designated themselves could not be considered in the absence of the entire record and since it was beyond the scope of inquiry. In any case any practice contrary to the Rules could not be accepted. LHM has taken decisions as regular Registrar evident from innumerable documents on record. LHM did not properly guide his superiors and got ad hoc appointment as Registrar, though there was no such provision in the Statute and failed to properly guide the Vice Chancellor who was not expected to know the law. It was therefore, established, even from endorsement on his own confidential assessment report that LHM represented himself as a regularly appointed Registrar. Therefore, charge no.1 was proved.

Charge No.2 : By concealing the fact that LHM was only an In-charge Registrar, he got himself appointed as In-charge Vice Chancellor u/s 10(4) of the Act by misguiding the Government though there were senior officers of the University u/s 8 eligible for appointment and even though LHM could not be considered to be such Officer and to conceal this deception the relevant correspondence file with the Government was not handed over by LHM and intentionally destroyed and he had committed serious misconduct.

(Findings on page 50/ 155)

An In-charge Registrar or Acting Registrar or Registrar on ad hoc appointment could not be considered as an officer of the University as contemplated u/s 8 of the Act. It could not be believed that LHM was given additional charge to carry out current duties of Vice Chancellor by the Governor without any correspondence. He was the only person to handle the file under Statute 103C. It was possible that LHM concealed relevant facts regarding seniority etc. and wrongly represented himself as being eligible for being given charge as Vice Chancellor. Such file could not be with the Government or at Gandhinagar and therefore there was no question of accepting his contention that the University ought to have called for the documents from there. It was therefore established that LHM had recommended his own name to the Government for

additional charge of Vice Chancellor for discharging current duties and he had concealed the facts regarding seniority and his real cadre and to avoid subsequent exposure, he had concealed the file and therefore charge no.2 was established.

Charge No.3 : Though there was no provision for appointment of Acting/ In-charge Vice Chancellor and LHM had not been appointed to such post, he had impersonated himself as such by printing visiting cards, letter heads, greeting card, submitting foreword in University Handbook and issued innumerable orders to the office, presided over meetings and exceeded his functions of discharging only current duties, and dishonestly, with ill intention and self interest issued advertisement, appointments and incurred expenditure of large amounts as if he was the regular Vice Chancellor and misused the post and also misguided all concerned and made unauthorised use of powers of Vice Chancellor in a manner so as to bring the post into disrepute and make it a laughing stock amongst the public and had therefore committed grave and criminal misconduct.

(Findings Page 59/155)

Though LHM was only given additional charge of Vice Chancellor he had knowingly and falsely represented himself as Acting Vice Chancellor/ Vice Chancellor and had enjoyed all powers. He had got visiting cards, letter heads printed as Vice Chancellor before 1.4.98 as evident from the 5 digit phone number and had got his name included in the chart of Vice Chancellors in the Syndicate Hall. LHM has accepted that he had represented himself as vice Chancellor which was a false persona. It was not possible to give any finding on past practice or precedent in the absence of complete details and it was not within the scope of inquiry. Even in the confidential assessment report, he had signed as Vice Chancellor. Advertisement had also been issued under him for filling in posts, in hot haste. He had also taken charge allowance for the post of Vice Chancellor though he was not given additional charge. He had also returned Rs.20000 to his brother. Shri D.D. Kanjaria was promoted contrary to Rules, Dr.Kirtidevi Gohil was

suspended maliciously and illegally by using emergency powers u/s 11(4) of the Act for the same offence for which he had been warned earlier, which was not warranted. Emergency powers could not have been invoked as per extract of University Laws in India Chapter 4. Therefore, LHM had adopted false persona as Vice Chancellor, misused statutory powers vested in him despite knowing limitations, being a senior employee of University and therefore the charge was established.

Charge No.4 : LHM had signed his own confidential assessment report as reporting officer and also as reviewing officer and had got his name printed as Acting Registrar at one place and Acting Vice Chancellor at another in the University Handbook and by such blatant and irresponsible conduct had committed grave act of misconduct.

(Findings on page 86/155)

LHM ad (sic) admitted mistake of signing as Acting Registrar in the confidential report and his contention that his conduct was bona fide, could not be accepted and the same was without self respect and irresponsible and the charge was established.

Charge No.5 : By wrongly assuming powers of regular Vice Chancellor, LHM issued advertisement on 3.4.98 for filling up posts in University in hot haste though Dr.Kurup was appointed as Vice Chancellor on 3.4.98 and this fact was not brought to his notice on 4.4.98 when he took charge and thereby LHM had committed breach of trust and serious misconduct.

(Findings page 94/155)

Issuing advertisement and taking action for filing up posts does not fall within current duties of Vice Chancellor even as per common sense. The then Vice Chancellor had stopped the process by noting dated 3.10.97, to await approval of Governor. No noting thereafter recorded that such approval or clearance had been received and advertisement was issued in a hurry under directions of LHM. There was some hidden agenda behind such action which

was not clear but the undue haste was apparent. As per M.P. High Court ruling in the book of University Laws in India, a person discharging current duties could not be equated with the Vice Chancellor and therefore, it was obvious that for some hidden aim LHM exceeded power and hence the charge was established.

Charge No.6 : Recommending and appointing Dr.Kirtidevi Gohil on 12.4.99 to secure economic benefit to her, though there was no demand from the department and the appointment was unnecessary and such appointment was contrary to express instructions of the Vice Chancellor who had gone on leave, not to make any appointment and thereby LHM had committed very serious misconduct.

(Findings Page 102/ 155)

Even the Vice Chancellor did not have the power to transfer the post to a different department and make an appointment as done by LHM and hence the charge was established.

Charge No.7 : By getting his name entered in the list of Vice Chancellors in the Syndicate Hall though LHM was not holding the post either as regular or In-charge Vice Chancellor and was not authorised to represent himself as such and thereby LHM had created an illusion of being Vice Chancellor and had committed grave misconduct.

(Findings Page 106/155)

It was not possible to accept contention of LHM that he was not instrumental in getting his name printed on the board or that he was not aware of the same. It was not possible to finally conclude whether there was a practice of putting the name of In-charge Vice Chancellor on the board in the absence of complete record and it was beyond the scope of inquiry. It was clearly a high profile projection by LHM by giving indirect instructions for putting up his name and therefore, the charge no.7 was established.

Charge No.8 : LHM had wrongly claimed and obtained charge allowance as In-charge Vice

Chancellor though there was no provision for such payment and had therefore, committed an act of grave misconduct.

(Findings Page 111/155)

Since LHM had not been given additional charge of Vice Chancellor, he could not have applied for or recommended grant of charge allowance (Ex.11/ 34 dated 12.6.98). LHM has taken wrongful advantage of the situation and recovery should be made and the charge was established.

Charge No.9 : While holding additional charge of Registrar, LHM had not fulfilled duties as Deputy Registrar though claiming salary of Deputy Registrar and charge allowance for working as Registrar, evident from the files and record and therefore, committed financial irregularity and serious misconduct.

(Findings Page 118/ 155)

This charge was not established.

Charge No.10 : By recommending Shri D.D. Kanjaria for promotion and accepting his own recommendation as In-charge Vice Chancellor he had acted with suspect intentions, flouted the relevant rules, appointed an ineligible person to the post and had committed grave misconduct.

(Findings Page 123/ 155)

The Central Government had only sanctioned the upgradation of the post of Steno Grade III to Steno Grade II but had not approved appointment of an unqualified candidate. The Steno Grade II post was to be filled in by open selection and by Staff Selection Committee. Such candidate should have the required speed in English and Gujarati Stenography. Shri Kanjaria was only an English Steno. Despite this LHM gave ad hoc promotion to Kanjaria on his own recommendation, contrary to rules. Hence charge was clearly established.

Charge No.11 : LHM issued suspension/ inquiry orders dated 18.10.97 against Dr.M.N. Gohil in a mala fide, malicious and vengeful manner and without authority in haste to avoid Senate meeting on 20.10.97 though Dr.Gohil had already suffered punishment of warning for the

same offence on 28.9.95 and thereby LHM had committed serious misconduct.

(Findings Page 132/ 155)

The inquiry against Dr.Gohil for the same allegations as contained in complaint dated 10.7.97 had concluded by issuing warning by Syndicate on 28.9.95. Though no man can be punished twice for the same offence, LHM as Registrar had recommended re-inquiry and accepted the same as In-charge Vice Chancellor on 18.10.97 and suspended Dr.Gohil. This exceeded current duties and was not justified u/s. 11(4) of the Act and use of emergency powers could not fall within current duties. It could be presumed that the order against Dr.Gohil was malicious and motivated with some hidden objective, self serving and contrary to regulations and therefore, the charge was established.

Charge No.12 : LHM had concealed University property being correspondent regarding appointment to current duties of Vice Chancellor with Government to conceal his own misrepresentation, despite demands to hand over the same and thereby committed grave misconduct.

(Findings Page 137/ 155)

It was not possible that no representation was made to the Government for an appointment u/s. 10(4) of the Act as contended by LHM. Only the Registrar could have entered into such correspondence. Since LHM was not a regular Registrar, it was mysterious how he came to be given charge as Vice Chancellor. It was obvious that LHM had misplaced the file so as not to be exposed and therefore, the charge was established.

Charge No.13 : LHM had claimed and received double examination allowance in 1992-93 and 1993-94 as Deputy Registrar and also as Chief Accounts Officer and therefore, dishonestly obtained financial benefits, was guilty of corruption and was liable for repayment.

(Findings Page 141/ 155)

This Charge was not established.

Charge No.14 : LHM had misused his powers as Chief Accounts Officers in 1992-93 by releasing Rs.20,000 to Professor Shastri, his elder brother, though it had been withheld from his retiral benefits since Prof. Shastri had not settled accounts regarding advance payment made by him for purchase of equipment as Director Pharmacy and thereby LHM had caused financial loss to the University and committed serious misconduct and was liable for repayment.

(Findings page 149/ 155)

Responsibility for setting accounts of advance payment was with the Director. Prof. Shastri could not have blindly relied upon the store keeper-Shri Joshi who had misappropriated the funds and was himself responsible for the breach. Merely because Shri Joshi had misappropriated the amount, Prof. Shastri was not absolved of his liability and was liable for accounting for the advance payment. No order of Vice Chancellor for release of Rs.20,000 was produced no undertaking q as contended was given by Prof. Shastri. LHM as Chief Accounts Officer had ordered release of the said amount on 6.8.94 and therefore, the charge was established."

5. On perusal of the findings recorded along with each charge it is clear that the Inquiry Officer first arrived at the conclusion and then supported the same by giving reasons for the same. Besides the Inquiry Officer has brushed aside the entire defence of the petitioner by using a common phrase that, "since it was beyond the scope of the inquiry." The gist of the charges is that, 'the petitioner represented himself as a regular Registrar though he was only given additional charge of the post of Registrar'. To elaborate this, various incidents like, 'getting printed visiting cards, letter heads, getting his name painted in the list of Vice Chancellors in the Syndicate Hall, etc. are mentioned. The petitioner tried to defend the same by submitting that he followed his predecessors in doing so and he acted in the same manner. That defence is not considered at all and it is said that, "It is beyond the scope of the inquiry." The most glaring illustration is getting the name painted in the Syndicate Hall. It is worth noting that out of nine names which are painted, five have the suffix 'ACTING'. If their names are painted, petitioner's name can also be legitimately be painted.

To be more precise, the name of the petitioner appears at serial no.7, and out of six predecessors, three bear the suffix, 'ACTING'. If that is the position then petitioner cannot be held guilty for having his name painted in that list in the Syndicate Hall. In the aforesaid facts and situation the defence put forward by the petitioner was a valid one, which could not have been brushed aside by the Inquiry Officer by saying that, "It is beyond the scope of the inquiry".

6. Of all the charges, except one, wherein the allegation is that the petitioner drew charge allowance for both the posts, namely, Acting Registrar and also Acting Vice Chancellor, the amount involved is Rs.4560/-, no other charge relates to financial irregularity. Except this solitary charge, in none of the other charges even remotely it is not alleged that the petitioner has gained any personal benefit. In view of that punishment of dismissal, by any standard is not only disproportionate but harsh enough to shock the conscience of the Court. In short, the matter is that the petitioner who was appointed as Registrar on ad hoc basis by order dated 19.02.1999, Annexure 'D' and without being a fulfledged Registrar, was under an obligation to discharge all the duties of the Registrar. While he was working as ad hoc Registrar he was given additional charge of Vice Chancellor by order dated 07.10.1997 (Annexure 'B' to the petition).

7. It is also required to be noted that the Inquiry Officer in the zeal of recording a finding of guilt against the petitioner has lost sense of proportion in using the language to the extent that,

> "L.H. Maharshi (the petitioner) did not properly guide his superiors and got ad hoc appointments as Registrar, though there was no such provision in the Statute and failed to properly guide the Vice Chancellor who was not expected to know the law. .. .."
>
> (emphasis supplied)

8. While framing charge against the petitioner the authorities have not taken care of the impact of the language used in the charge like in Charge No.2, it is stated that,

> " .. .. By concealing the fact that LHM was only an In-charge Registrar, he got himself appointed as In-charge Vice Chancellor u/s 10(4) of the Act by misguiding the Government

though there were senior officers of the University u/s 8 eligible for appointment. .. .." (emphasis supplied)

9. In the same charge it is also alleged against the petitioner that,

" .. .. to conceal this deception the relevant correspondence file with the Government was not handed over by LHM and intentionally destroyed and he had committed serious misconduct."

The finding recorded under this Charge is that,

" .. .. He was the only person to handle the file under Statute 103C. It was possible that LHM concealed relevant facts regarding seniority etc. and wrongly represented himself as being eligible for being given charge as Vice Chancellor. Such file could not be with the Government or at Gandhinagar and therefore there was no question of accepting his contention that the University ought to have called for the documents from there. .." (emphasis supplied)

10. From these observations it is clear that the Inquiry Officer has not applied his mind. There was correspondence between the University and the Government. The letters sent to the Government are bound to be in the file of the Government. If it was alleged against the petitioner that he destroyed the file of the University, it should have been the first priority of the University authorities to get the copies of the relevant papers from the Government to substantiate its charge that the petitioner 'misrepresented before the Government' and 'misguided the Government' by writing such letters. The observation of the inquiry officer that, "Such file could not be with the Government or at Gandhinagar" shows the total non application of mind and shows the predetermined mind of the Inquiry Officer.

11. One of the charges amongst others is that while the petitioner was holding additional charge of the Vice Chancellor, he dishonestly, with an ill intention and self interest issued advertisement, appointments and incurred expenditure of large amounts as if he was the regular Vice Chancellor, thus misused his position, misguided all concerned and made unauthorised use of powers of Vice Chancellor in a manner so as to bring the post into disrepute and made it a laughing stock amongst

the public and thus committed grave and criminal misconduct. To elaborate this appointments of Dr.D.D. Kanjaria and Dr.Kirtidevi Gohil are referred to. Mr.Joshi, the learned counsel appearing for the petitioner emphatically submitted that none of these appointments were disturbed even after regular Vice Chancellor was appointed. He submitted that therefore, an inference should be drawn to the effect that 'these appointments were not in any way illegal' which would have warranted their reversion.

12. From the perusal of the record of the case it is apparent that a particular group, consisting of Dr.M.N. Gohil who was suspended by the petitioner during his tenure as Ad hoc Registrar and holding additional charge of Vice Chancellor, Ashokbhai Nanda and R.M. Jhala, who was subsequently appointed as Registrar was after the petitioner, to settle the accounts. This is also born out from the facts which are set out in paras 19 and 20 of the petition. Paras 19(a), 19(b) and 20(a) set out details of S/Shri Ashokbhai Nanda, R.M. Jhala and Dr.M.N. Gohil respectively.

13. Mr.Joshi, the learned counsel submitted that this is a case wherein besides the aforesaid irregularities and illegalities in the matter of conducting an inquiry against the petitioner on all possible and whimsical charges, the principles of natural justice were blatantly violated. Mr.R.M. Jhala, who was then appointed as Registrar was the officer who issued charge sheet to the petitioner. He was the officer who issued suspension order of the petitioner. He was the officer who was appointed as presenting officer of the University, against the petitioner. He was the officer whose sole testimony was relied on to prove charge/s against the petitioner. The learned counsel submitted that as if this was not enough he was appointed as a member of the Committee, who was given full powers by the Syndicate to decide the case finally to award punishment.

14. Similarly, Shri Ashokbhai Nanda was the one, who alleged misuse of powers by the petitioner on 25.02.2000. A resolution was passed by the Senate, but the same was withdrawn with an understanding that the matter will be agitated before the Syndicate. The Syndicate appointed a committee and in that the complainant-- Ashokbhai Nanda was appointed as a Member of the committee who was to inquire into the matter and the one who seconded the allegations against the petitioner before the Senate, Mr.Indubhai Vora was also appointed as another member of the committee. Thus, Mr.Ashokbhai Nanda who was the

complainant was entrusted the job of Investigating Officer, who after submitting the report on 14.12.2000, that the charges are proved, became instrumental in passing the Resolution of suspending the petitioner with immediate effect on 06.09.2001. He was also signatory to a Resolution by which the Syndicate accepted the findings/ report of the Inquiry Officer and decided to dismiss the petitioner.

15. Similarly, Dr.M.N. Gohil, who is alleged to have been maliciously suspended by the petitioner, participated in the Syndicate Meeting in which it was decided to suspend the petitioner and held departmental inquiry and also participated in the meeting on 15.04.2002 wherein it was decided to accept the report of the Inquiry Officer and dismiss the petitioner from services of the University.

16. From the aforesaid discussion it is clear that in this case 'principles of natural justice' were not only violated, but were totally ignored and brushed aside as if they do not exist at all. This is evident from the record as the Committee of the Syndicate, which claims to have accorded hearing to the petitioner, before taking final decision in the matter on 17.05.2002, also claims to have gone through 155 pages of report of the Inquiry Officer, along with the voluminous evidence on record, the reply of the petitioner running into 100 pages and still could take final decision on the same day, i.e. 17.05.2002 of dismissing the petitioner from the services of the University.

17. Mr.Joshi, the learned advocate relied upon the following decisions:

(i) Kumaon Mandal Vikas Nigam Ltd. Vs. Girja Shankar Pant and others, reported in 2001 (1) SCC 182

(ii) Yoginath D. Bagde Vs. State of Maharashtra and another, (1999) 7 SCC 739

(iii) Tilak Chand Magatram Obhan Vs. Kamala Prasad Shukla and others, reported in 1995 Supp (1) SCC 21

(iv) Rattan Lal Sharma Vs. Managing Committee, Dr.Hari Ram (Co-Education) Higher Secondary School and others, reported in 1993 (4) SCC 10

(v) Arjun Chaubey Vs. Union of India and others, reported in 1984 (2) SCC 578

(vi) Arwachini Bharti Bhawan School Vs. Directorate of Education and others, reported in 2000 (3) SLR 755

(vii) Madhusudan Dharshibhai Tank Vs. M. Anwar, reported in 2000 (3) GLR 2403

(viii) Shankarbhai Devjibhai Patel and others Vs. Sabarkantha Jilla Sahakari Kharid Vechan Sangh, reported in 1984 GLH 498.

(ix) Amumiyan Pirmiyan Kadri Vs. Gujarat State Road Transport Corporation and others, reported in XXXV (1) GLR 326.

18. As against that Mr.Popat, the learned advocate relied upon the decision of the Honourable the Supreme Court of India in the matter of State Bank of Patiala and others Vs. S.K. Sharma, reported in (1996) 3 SCC 364. I have carefully considered them. They do not warrant discussion in detail for the reason that on the facts of the case itself it is clear that the authorities have utterly failed in observing the principles of natural justice as discussed hereinabove. Therefore, this Court is of the considered opinion that this petition is required to be allowed and the impugned order dated 18.05.2002 is required to be quashed and set aside. Order accordingly. Rule is made absolute. No order as to costs.

19. Mr.Joshi, the learned advocate appearing for the petitioner submitted that after filing of this petition, the petitioner, L.H. Maharshi died in a road accident on 21.11.2003. Therefore, his heirs are brought on record as he survived by his wife, aged 42 years, two minor sons and one minor daughter studying in Standards XII, X and VII respectively. The authorities are directed to treat the petitioner to be in services till the date of his death and to grant him all consequential benefits as if the order under challenge was never passed. The authorities are directed to carry out these directions within four weeks from the date of receipt of this judgement and order.

20. Mr.Popat, the learned advocate appearing for the respondents prayed that this judgement and order be stayed for a period of four weeks. In the facts of the

case the request is not found to be reasonable. Hence rejected.

(Ravi R. Tripathi, J.)

karim